



POLICE DEPARTMENT

July 29, 2021

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In the Matter of the Charges and Specifications :
- against - :
Police Officer John Ogunmoyin :
Tax Registry No. 937211 :
Transit District 20 :
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Case No.
2020-22741

At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

Penny Bluford-Garrett, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent:

Craig Hayes, Esq.
Worth, Longworth & London, LLP
111 John Street – Suite 640
New York, NY 10038

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

CHARGES AND SPECIFICATIONS

1. Said Police Officer John Ogunmoyin, while assigned to Transit Bureau Brooklyn Task Force, while off-duty, on or about October 27, 2019, failed to comply with lawful orders issued to him by Sergeant Robert Vassallo during a vehicle stop, to wit: said officer failed to immediately produce his Department identification card and vehicle documents when directed to do so.

P.G. 203-03, Page 1, Paragraph 2

COMPLIANCE WITH ORDERS

2. Said Police Officer John Ogunmoyin, while assigned to Transit Bureau Brooklyn Task Force, while off-duty, on or about October 27, 2019, engaged in conduct prejudicial to the good order and efficiency of the Department, to wit: said officer was discourteous to Sergeant Vassallo when he had to have his Department identification card forcibly removed from his hand when he refused to turn it over.

P.G. 203-10, Page 1, Paragraph 5

PUBLIC CONTACT -
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on June 23, 2021.

Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, as Respondent has pled Guilty, I find him Guilty and recommend a penalty of the loss of 16 vacation days.

SUMMARY OF EVIDENCE IN MITIGATION

The facts in this case are not in dispute as Respondent has admitted his guilt to both specifications. There is also video evidence documenting portions of the incident.

On October 27, 2019, Respondent was driving his private vehicle while off duty in the vicinity of White Plains Road and Storey Avenue, which was about seven minutes from his house. As he made the right turn onto Storey Avenue, he was pulled over by a marked RMP.

Respondent stopped his car and rolled down his two front windows. None of the car windows were tinted. He put his dome light on as it was dark outside. (Tr. 10-13)

When the first officer from the RMP approached Respondent's car, he told him to roll down his back windows. Respondent did so but stated to the officer that his windows were not tinted. The officer asked him why he said that and Respondent told him that he could see right through the windows. Respondent testified he found the request to roll down his back windows to be "strange." He further testified that after this exchange he was, "a little upset," as he didn't feel he had been driving erratically or making an illegal turn. (Tr. 13- 15)

Respondent had his ID in his hand during his exchange with the officer but when the officer asked to see it, Respondent held onto it. A sergeant next approached Respondent and the sergeant, "became a little aggressive." He asked why Respondent was acting like he was with the officer and why he was giving him a problem. (Tr. 15)

Two video clips from Body Worn Cameras (Dep't Exs. 1 and 2) show Respondent questioning why he was stopped and having the discussion about the tinted windows. Dep't Ex. 1 shows Respondent continuing to hold onto his ID after the sergeant requests it and appears to try to pull it from Respondent's hand. The sergeant is later seen with the ID in his hand. The clip also shows that the Respondent and the sergeant continued to argue. At one point the sergeant tells Respondent that he doesn't know who the "fuck" his supervisors are. (Dep't Ex. 1 at 1:48) Respondent then repeatedly says the sergeant is disrespecting him by cursing at him. The sergeant at one point refers to the Respondent as "son" and tells him he is behaving like an animal.¹ (Dep't Ex. 1 at 2:08 and 3:11)

Respondent was issued a ticket for disobeying a pavement marking. (Dep't. Ex. 3)

¹ The Department Advocate stipulated that the sergeant received a Command Discipline and instructions based on his actions in this incident. (Tr. 29)

Respondent explained to the tribunal that he did not immediately hand over his ID for several reasons. He emphasized that he did display the ID in his hand and he did not think he had committed any vehicular offenses. He was driving an expensive car and he felt as, “a black man driving this type of vehicle, you know, that was the reason I was being pulled over.” He felt frustrated by this as he had been pulled over in the past for the type of car he had been driving even though he had committed no vehicle offense. He also had a lot on his mind as his [REDACTED] [REDACTED]. Respondent testified that in his career, he has never had any situation where he has been discourteous to any officer and in fact was the driver for a sergeant for eight years. (Tr. 12, 16 18)

PENALTY

In order to determine appropriate penalties, the Tribunal, guided by the Department Disciplinary System Penalty Guidelines (“Disciplinary Guidelines”), considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondent’s employment history was also examined (*See* 38 RCNY § 15 07). Information from his personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on January 10, 2005, has pled Guilty to failing to immediately produce his Department ID and vehicle documents when directed to do so and being discourteous to a sergeant when he had to have his department ID forcibly removed from his hand after refusing to turn it over.

The Department Advocate has requested a penalty of the forfeiture of 20 vacation days—the presumptive penalty of 15 vacation days for failure to comply with an on duty officer while off-duty (Specification 1) and an additional 5 vacation days for discourtesy (Specification 2).

In the Department, there is clearly the need for all officers, whether off-duty or on-duty, to obey the commands of superior officers and that did not occur in this case. A penalty must be imposed for his misconduct. However, in this case, with regard to Specification 2, I recommend a mitigated penalty based on the following factors. Respondent accepted responsibility for his misconduct and demonstrated voluntary candor in pleading guilty. He testified credibly concerning his state of mind at the time that he was experiencing emotional distress both because of the serious [REDACTED] and based on his feeling that he was once again being stopped based on his race and brand of car rather than for a real traffic violation. There also was a clear failure to deescalate the situation on the part of the sergeant in this case, specifically with regard to the discourtesy charge. The sergeant cursed at Respondent, referred to him as "son," and, most disturbingly, called Respondent "an animal." While Respondent's initial failure to provide the documents and comport himself courteously and calmly is unacceptable, the Tribunal cannot ignore the troubling way that the sergeant treated Respondent, as depicted on video.

Based on the above analysis, I recommend a penalty of the loss of 15 vacation days for Specification 1 and the loss of 1 vacation day for Specification 2 for a total forfeiture of 16 vacation days.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner Trials

APPROVED

OCT 14 2021

DERMOT SHEA
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER JOHN OGUNMOYIN
TAX REGISTRY NO. 937211
DISCIPLINARY CASE NO. 2020-22741

Respondent was appointed to the Department on January 10, 2005. On his last three annual performance evaluations, he received ratings of “Exceeds Expectations” for 2018, 2019 and 2020.

In 2011, Respondent forfeited 20 suspension days without pay after pleading guilty to providing an unauthorized, duplicate NYPD restricted parking permit to another individual, who displayed it in her vehicle.

For your consideration.

Nancy R. Ryan
Assistant Deputy Commissioner Trials